

May 12, 2005

VIA ELECTRONIC FILING

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

**Re: *IP-Enabled Services Rulemaking; WC Docket No. 04-36*
*Yak Communications (Canada) Inc. Ex Parte Comments***

Dear Ms. Dortch:

Yak Communications (Canada) Inc. (“Yak” or “Company”) understands that under immediate consideration by the Commission is a proposal to impose traditional 911 requirements on both Voice Over Internet Protocol (“VoIP”) services, including nomadic VoIP services. Yak hereby submits this *Ex Parte* to comment on the following issues:

- Yak is a Canadian telecommunications company that offers a full array of local, long distance, calling card, and cellular services to residential and small and medium business customers in North America. Yak’s services are primarily offered in Canada, but it has recently expanded its operations to include portions of United States as well. Its U.S. services are provided through its affiliate, Yak Communications (America) Inc., which offers residential long distance, calling card and cellular services (two-stage dialing for long distance from cellular phones) throughout the continental U.S. In addition to conventional telephony services, Yak, through its affiliate Yak Communications (America) Inc., also has begun offering a VoIP product that may be used by customers at either fixed or portable locations.
- The Commission must recognize that consumers use a variety of VoIP services today, many critical technical and legal questions on 911 implementation remain unresolved, and different VoIP services may require different 911 solutions. Yak implores the FCC to ensure that the Commission and the industry have sufficient time to develop and to implement workable 911 solutions. Yak submits that the Commission should continue its consideration of 911 VoIP requirements, particularly for nomadic services, in a Further Notice of Proposed Rulemaking (“FNPRM”) in this docket. This FNPRM will provide

an important opportunity for the Commission and the industry to develop a complete record on the appropriate 911 approaches and the impact of such requirements on the developing VoIP service industry.

- At this time, providers that offer nomadic VoIP services have no means by which to offer E911 services because they do not have the ability to provide nationwide access to local Public Safety Answering Points (“PSAPs”) with call location identifying information. In order to do so, nomadic VoIP providers would need to secure use of the selective routers and pseudo-telephone number codes (so-called “p-ANIs”) in every location throughout the United States. Trunks and gateways would need to be provisioned and interconnection agreements would need to be negotiated to cover every location across the country. This is a staggering task that plainly is not currently feasible for the vast majority of nomadic VoIP providers who do not have a nationwide presence.
- If the Commission determines that it must establish a set of 911 requirements on VoIP providers, Yak recommends that the Commission consider an approach similar to the one adopted by the Canadian Radio-Television and Telecommunications Commission (“CRTC”) in its examination of the VoIP 911 issues (“CRTC Decision”).¹
 - In recognition of the current technical obstacles related to the provision of E911 in the context of nomadic VoIP services, the CRTC decided to proceed with a phased-in approach for implementation of E911 requirements on nomadic VoIP services. This approach requires nomadic VoIP services to proceed with an interim solution as the industry works towards the capabilities to provide E911.
 - The CRTC phased-in approach permits VoIP providers to adopt an interim solution whereby VoIP offerings must be capable of routing 911 calls from a nomadic VoIP device in some way to the appropriate local emergency services agency (*i.e.*, police, fire, ambulance, etc.).
 - The CRTC specifically identified two acceptable interim solutions. The first solution allows 911 calls from a nomadic device to be routed a third party call center that will answer the call through an agent and then will route the call to the appropriate PSAP based on the location information provided by the 911 caller. The PSAP agent would then connect the caller to the required emergency service agency (*i.e.*, police, fire, ambulance, etc.). Under the second solution, the call center agent could route the call directly to the appropriate local emergency service agency, provided that this agency treats the call as a 911 call. In either case, the CRTC expects that call center agents will stay on the call to orally verify the location of the caller and confirm that the call is routed to the appropriate PSAP or emergency services agency.

¹ CRTC Decision 2005-21, Emergency service obligations for local VoIP service providers, available at www.crtc.gc.ca/archive/ENG/Decisions/2005/dt2005-21.htm.

- VoIP providers may contract with third-party intermediaries to provide the interim solution capabilities to its customers, and it is assumed that most providers likely will do so initially. Since there is no standard solution (for instance, the access to the PSAP varies from area to area) negotiating and implementing the “interim solution” requires significant time and efforts.
 - In its Decision, the CRTC commissioned an industry working group, the CRTC Interconnection Steering Committee (“CISC”), to examine the nomadic 911 VoIP issues and provide two reports to the CRTC, one in six months and one in a year. The six month report is to identify the technical and operational issues that impede E911 service delivery, and the one year report is to detail the recommended E911 solutions for nomadic VoIP services.
 - The CISC currently is discussing various issues with the industry, such as an online national database for use in the Interim Solution, specific customer notification requirements, limitations of liability for the VoIP providers, and access to the individual PSAP administration numbers.
- Yak submits that the FCC should consider these as well as other interim solutions offered in the record as an initial means to achieve its public safety goals. If the FCC must mandate VoIP 911 requirements, then it should consider the available means to route the calls, possibly through call centers, and convene an industry working group to examine the technical and practical considerations of nomadic VoIP services further.
- While Yak wholeheartedly agrees that 911 is an extremely important public safety issue, the continued growth and development of VoIP services is an important public policy issue for Commission and U.S. consumers as well. In particular, VoIP has the potential to facilitate the wide spread deployment of broadband services in the U.S., a significant public policy goal indeed.
- With the corresponding goals of public safety and broadband deployment in mind, Yak urges the Commission not to impose any E911 obligations on nomadic VoIP services at this time. If the Commission nonetheless decides that it must adopt a set of 911 requirements at VoIP providers at this time, it should consider a phased-in approach to E911 implementation similar to the approach adopted by the CRTC. Given that nomadic VoIP services are often used “across the border,” it would be sound public policy to ensure that 911 calls are handled in Canada and in the United States in the same fashion.
- Importantly, even rules that require mandatory access to selective routers and p-ANIs would not result in practical solution for 911 VoIP services. Instead, such rules, unfortunately, would mean the demise of the vast majority of nomadic VoIP services in this country.

- Rather, Yak asks that the Commission take note of the recent actions of the CRTC and the ongoing discussion at the CISC and move forward in this proceeding by giving full consideration to the huge technical and practical difficulties that exist at this time for providers to implement a feasible E911 solution for nomadic VoIP services.
- It would be in the best interests of the Commission, the industry, and U.S. consumers if the FCC were to utilize an industry working group for development of a feasible E911 solution for nomadic VoIP services in which the FCC and emergency service associations would participate – similar to the CISC in Canada. Such an approach would provide the Commission with a better opportunity to effectively implement a feasible 911 VoIP solution that protects public safety while at the same time promotes, rather than eradicates, innovative services such as nomadic VoIP.

If you have any questions regarding these filing, please do not hesitate to contact the undersigned.

Respectfully submitted,

/s/

Catherine Wang

Wendy M. Creeden

Counsel for Yak Communications (Canada) Inc.

cc: Chairman Kevin J. Martin (FCC)
Commissioner Kathleen Q. Abernathy (FCC)
Commissioner Michael J. Copps (FCC)
Commissioner Jonathan S. Adelstein (FCC)
Dan Gonzalez (FCC)
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